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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,127	11/21/2003	Stacey Elyn Hahn		1570

7590 03/24/2004  
STACEY HAHN  
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EXAMINER

WILLIAMS, JAMILA O

ART UNIT PAPER NUMBER

3712

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/718,127

**Applicant(s)**

HAHN, STACEY ELYN

**Examiner**

Jamila O Williams

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION*****Specification***

The specification is objected to because the current format does not clearly set forth the invention as required by current practices (see MPEP). For example under DESCRIPTION OF INVENTION the applicant has not clearly described the invention but only list materials and assembly. Additionally, the specification is missing the BRIEF DESCRIPTION OF THE DRAWINGS. There is no correlation between the figures and the specification. Applicant is advised to review both the Arrangement of the Specification and Content of Specification sections below and make corrections where appropriate.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

**Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a

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nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

#### Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.  
  
Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.
- (e) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
  - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
  - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art

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known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

- (f) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (g) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (j) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international

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application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

- (k) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a

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manner as to present a complete operative device. The claim(s) must be in one sentence form only.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamila O Williams whose telephone number is 703-305-3312. The examiner can normally be reached on 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

### *HOW TO RESPOND TO THIS ACTION*

#### *What to Include in the Response*

In response to this Action, Applicant may make amendments or corrections to the text of the specification, claims, or drawings to overcome any rejections or

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deficiencies explained herein. However, in correcting the application the Applicant should take care not to enter "new matter" into the application. This means that features, method steps, or other parts of the invention not disclosed by the Applicant in the specification and claims as originally presented can not be added at this time, but the Applicant may rewrite portions of the presented material to bring his application into compliance with the Code of Federal Regulations.

Although Applicant may telephone the Examiner for questions or advice, the official reply to this action must be in writing. If Applicant feels that there are errors in the objections and rejections in this action, he must distinctly and specifically point out the supposed errors and must respond to every ground of objection and rejection. The Applicant must point out the patentable novelty which he thinks the claims present in view of the references cited or objections made. If amendments are made, he must show how the amendments avoid such references or objections.

Each section of an amendment document (Specification Amendments, Claim Amendments, Drawing Amendments, Remarks) must begin on a separate sheet. A new or corrected Abstract must also be on a separate sheet.

***Amendments to the Specification***

Amendments to the *specification* text are made by specifying which paragraphs are being amended (for example



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by page and line numbers), and reproducing the entire text of these paragraph(s) with markings to show what changes have been made, by striking through words to be deleted (~~like this~~) and underlining words added. You must rewrite these entire paragraphs even if only one word therein has been changed. However, if a great many changes to many paragraphs are required, Applicant should rewrite the entire specification in clean (unmarked) format.

When sending a new clean specification, it is also necessary to:

A. Include a copy of the *old* specification with markings to indicate the deletions, insertions, and corrections that have been made (using strikeout to indicate words that have been deleted and underlining to indicate words that have been added);

B. Include a statement that the new specification includes no new matter that was not disclosed in the original specification. This statement must be accompanied by the following language:

"I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such

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willful false statements may jeopardize the validity of the application or any patent issued thereon."

***Amendments to the Claims***

If any amendments to the claims are made, you must provide a listing that accounts for all claims that have ever been presented in the application; you must provide this list even if only one word of one claim is being changed. In this list, you must also provide the text of each currently pending (non-canceled) claim. After the claim number of each listed claim, add in parentheses, the appropriate designation: "original - not amended", "currently amended", "canceled", "withdrawn", "previously presented", "not entered", or "new".

Only Claims which are currently amended must include markings to show what changes are being made, by striking out words deleted and underlining words added; if any claim is canceled, you don't have to re-write the text, just put "(canceled)" after its number.

If changes to a claim(s) are extensive, it should be canceled and rewritten as a completely new claim(s) *without underlining*. The numbering of the new claims should begin with the number next following the highest numbered claim existing in the application. When claims are canceled, remaining claims should not be renumbered. Also remember

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that the application filing fee covers up to 20 claims, up to 3 of which may be independent. If at any point in the prosecution the number of active (non-canceled) claims exceeds 20 total / 3 independent, it is necessary to send an additional fee for the additional claims (see enclosed fee list or [www.uspto.gov](http://www.uspto.gov)). If claims are later canceled to reduce the number of claims, Applicant will not be entitled to a refund.

***Exceptions to the Underlining/Strikeout Procedure***

(1) For deletion of 5 characters or less, double brackets may be used, for example **[[word]]**.

(2) if strikeout cannot be easily perceived, for example deletion of the number "4", double brackets must be used, for example **[[4]]**.

***Amendments to the Drawings***

Amendments to the drawings are made by presenting replacement sheet(s) which incorporate the desired changes; an explanation of the changes made must be presented in accompanying marks. In addition, a marked-up copy of the drawings showing changes made, for example in red ink, is useful but not required. Any replacement sheet must be labeled in the top margin as "Replacement Sheet", and include all figures that previously appeared on that sheet, even if only one is being amended. (Any marked-up sheet must be labeled "Annotated Marked-Up Drawings").

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A paper presenting amendments and/or remarks must bear an original signature by *all* Applicants, or registered Patent Attorney or Agent.

***When & Where to Respond***

The address for response is:

Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313

A response to this action must be received within three months from the action mailing date, as noted on the cover page. However, this period may be extended to up to six months by filing a request with the appropriate fee under 37 CFR Section 1.136(a). The extension fees are in an enclosed fee schedule, or are available at [www.uspto.gov](http://www.uspto.gov). If no response has been received after 6 months, the application will be considered abandoned and will be removed from our files.

We don't consider the postmark date; the date that the Applicant's response is actually received in the Patent Office mail room will be deemed the date of response, unless Applicant sends the response by U.S. Mail and includes a "Certificate of Mailing" statement in the papers. A Certificate of Mailing allows Applicant to mail the response right up to midnight of the last day for response,

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and it will still be accepted, even though it will arrive after the period for response. Even if Applicant is mailing the response well before the due date, it is still recommended to use a Certificate of Mailing in case the response is unexpectedly delayed by the Post Office. The Certificate of Mailing consists of the following statement:

"I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Commissioner of Patents and Trademarks, Washington,  
D.C. 20231, on ..."

Name of applicant, assignee, or Registered  
Representative \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

#### *Fax Response*

The Office is able to accept some types of papers by Fax, including amendments and remarks in response to an Office letter. The Fax number is given in the Office letter. Be sure to keep the original copies with original signatures on file for as long as the patent is valid. If a fee is due, you may pay the fee by a major credit card (American Express, Discover, Master Card, Visa) using form PTO-2038. Formal drawings cannot be accepted by Fax.

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Once Applicant's response has been received, it will typically take 3 or 4 months before the Examiner again reviews the application and notifies Applicant of the results. However, as assurance that the response has been received, Applicant may include a self addressed stamped post card in the envelope, with the serial number of the application and a list of the things submitted written on the back (such as "Amendments to claims" and "Two new sheets of drawings"). The card will be stamped with the date received and returned immediately upon receipt. It is also acceptable to send the response certified, registered, or Express mail.

In order to match the response with the file, it should clearly indicate on the front page the inventor's name, application serial number, Art Unit number, date application was filed, title of invention, and a brief statement of the purpose of the paper or what it is in response to.